



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2011-0595; FRL-9790-3]

Approval and Promulgation of Implementation

Plans; Ohio; Volatile Organic Compound Emission Control

Measures for the Cleveland Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving into the Ohio State Implementation Plan (SIP), several volatile organic compound (VOC) rules that were submitted by the Ohio Environmental Protection Agency (Ohio EPA) on June 1, 2011. These rules, which include the source categories covered by the Control Technique Guideline (CTG) documents issued in 2008, as well as several other miscellaneous rule revisions, will help Ohio's effort to attain the 2008 ozone standard. These rules are being approved because they are consistent with the CTG documents issued by EPA in 2008, and satisfy the reasonably available control technology (RACT) requirements of the Clean Air Act (Act). EPA proposed these rules for approval on May 25, 2012, and received no comments.

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2011-0595. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Steven Rosenthal, Environmental Engineer, at (312) 886-6052 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6052.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. What Public Comments Were Received on the Proposed Approval and What is EPA's Response?

II. What Action is EPA Taking Today and What is the Purpose of this Action?

III. Statutory and Executive Order Reviews.

I. What Public Comments Were Received on the Proposed Approval and What is EPA's Response?

EPA proposed these rules for approval on May 25, 2012 (77 FR 31265), and received no comments.

II. What Action is EPA Taking Today and What is the Purpose of this Action?

EPA is approving into the Ohio SIP several new VOC and amended VOC rules under Chapter 3745-21 of the Ohio Administrative Code (OAC). These include new fiberglass boat manufacturing, miscellaneous industrial adhesives, and automobile and light-duty truck assembly coatings rules, which are consistent with the CTGs issued in 2008, as well as revisions to definitions and rules for the control of VOC emissions from stationary sources, storage of volatile organic liquids, industrial cleaning solvents, and flatwood paneling coatings. These rules are approvable because they

are consistent with the CTG documents issued by EPA in 2008, and satisfy the RACT requirements of the Act. These VOC rules will help Ohio's effort to attain the 2008 ozone standard.

EPA is also approving into the Ohio SIP amendments to OAC 3745-72, which contain its Low Reid Vapor Pressure Fuel Requirements, so that it is consistent with EPA requirements regarding special provisions for alcohol blends.

III. Statutory and Executive Order Reviews.

Under the Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human

health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United

States Court of Appeals for the appropriate circuit by
[FEDERAL REGISTER OFFICE: INSERT DATE 60 DAYS FROM DATE OF
PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER].

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Nitrogen dioxide, Ozone, Reporting and recordkeeping
requirements, Volatile organic compounds.

Dated: March 4, 2013

Susan Hedman,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 52.1870 is amended by adding paragraph (c) (158) to read as follows:

§ 52.1870 Identification of plan.

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(c) * * *

(158) On June 1, 2011, the Ohio Environmental Protection Agency (Ohio EPA) submitted several volatile organic compound (VOC) rules for approval into the Ohio State Implementation Plan. These rules include the source categories covered by the Control Technique Guideline (CTG) documents issued in 2008, as well as several other miscellaneous rule revisions.

(i) Incorporation by reference.

(A) Ohio Administrative Code Rule 3745-21-01

"Definitions.", effective May 12, 2011.

(B) Ohio Administrative Code Rule 3745-21-09 "Control of emissions of volatile organic compounds from stationary sources and perchloroethylene from dry cleaning facilities.", effective May 12, 2011, except for paragraph

(U) (1) (h) .

(C) Ohio Administrative Code Rule 3745-21-21 "Storage of volatile organic liquids in fixed roof tanks and external floating roof tanks.", effective May 12, 2011.

(D) Ohio Administrative Code Rule 3745-21-23 "Control of volatile organic compound emissions from industrial solvent cleaning operations.", effective May 12, 2011.

(E) Ohio Administrative Code Rule 3745-21-24 "Flat wood paneling coatings.", effective May 12, 2011.

(F) Ohio Administrative Code Rule 3745-21-27 "Boat manufacturing.", effective May 12, 2011.

(G) Ohio Administrative Code Rule 3745-21-28 "Miscellaneous industrial adhesives and sealants", effective May 12, 2011.

(H) Ohio Administrative Code Rule 3745-21-29 "Control of volatile organic compound emissions from automobile and light-duty truck assembly coating operations, heavier vehicle assembly coating operations, and cleaning operations associated with these coating operations.", effective May 12, 2011.

(I) Ohio Administrative Code Rule 3745-72-02 "Definitions.", effective May 12, 2011.

(J) Ohio Administrative Code Rule 3745-72-05 "Liability.", effective May 12, 2011.

(K) Ohio Administrative Code Rule 3745-72-06 "Defenses.",

effective May 12, 2011.

(L) May 2, 2011, "Director's Final Findings and Orders,"
signed by Scott J. Nally, Director, Ohio Environmental
Protection Agency.

[FR Doc. 2013-08691 Filed 04/26/2013 at 8:45 am;

Publication Date: 04/29/2013]